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Attorneys for Plaintiff and Cross-Defendant
 M. DIANE KOKEN

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

M. DIANE KOKEN,

Petitioner,

v.

STATECO INC. d/b/a STATECO INSURANCE
 SERVICES and THOMAS NATOLI, and XYZ
 CORPS. 1-10, and DOES 1 through 10,
 inclusive,

Respondent.

Case No.: 3:05-CV-03007-JF

**PLAINTIFF AND CROSS-
 DEFENDANT M. DIANE KOKEN'S
 NOTICE OF REQUEST AND
 UNOPPOSED REQUEST TO
 WITHDRAW AS COUNSEL FOR
 THIRD PARTY DEFENDANTS;
 [PROPOSED] ORDER
 PERMITTING WITHDRAWAL**

AND RELATED CROSS-ACTION

TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Local Rule 11-5, counsel for plaintiff and cross-defendant M. Diane Koken ("Koken") hereby moves for an order permitting it to withdraw as counsel for Mutual Indemnity Ltd., Mutual Indemnity (Bermuda) Ltd., Mutual Indemnity (Barbados) Ltd., Mutual Indemnity (US) Ltd. and Mutual Holdings (Bermuda) Ltd. (collectively "Mutual Companies").

1 This motion is made on the grounds that neither Morgenstein & Jubelirer LLP
2 ("Morgenstein & Jubelirer") nor Wolf, Block, Schorr and Solis-Cohen LLP represents the
3 Mutual Companies and neither law firm has been authorized to represent the Mutual
4 Companies. As discussed in the accompanying memorandum of points and authorities,
5 Morgenstein & Jubelirer accepted service of the third party complaint on behalf of the
6 Mutual Companies and stipulated to extend the time for the Mutual Companies to
7 respond to the third party complaint by mistake.

8 This motion is based on this notice of motion, the accompanying memorandum of
9 points and authorities, and the accompanying declarations of Adrienne S. Leight and
10 Anthony R. Twardowski.

11
12 DATED: November 29, 2005

MORGENSTEIN & JUBELIRER LLP

13
14 By 
15 Adrienne S. Leight
16 Attorneys for Plaintiff and Cross-Defendant
17 M. DIANE KOKEN
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MORGENSTEIN & JUBELIRER LLP
ATTORNEYS AT LAW
SAN FRANCISCO

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Local Rule 11-5, counsel for plaintiff and cross-defendant M. Diane Koken ("Koken") moves to withdraw as counsel for third party defendants Mutual Indemnity Ltd., Mutual Indemnity (Bermuda) Ltd., Mutual Indemnity (Barbados) Ltd., Mutual Indemnity (US) Ltd. and Mutual Holdings (Bermuda) Ltd. (collectively "Mutual Companies"). Counsel for Koken accepted service of the third party complaint on behalf of the Mutual Companies and stipulated to extend the time for them to respond to the third party complaint by mistake. Because the Mutual Companies have not asked counsel for Koken to represent them, nor have the Mutual Companies authorized counsel for Koken to accept service of documents on their behalf, counsel for Koken respectfully requests that the Court permit it to withdraw from representing them.

II. STATEMENT OF FACTS

On October 31, 2005, defendants Stateco Inc. and Thomas Natoli (collectively "Stateco") filed a cross-complaint against Koken and a third party complaint against the "Mutual Companies". Declaration of Adrienne S. Leight in Support of Unopposed Motion to Withdraw ("Leight Decl.") ¶ 2. In early November 2005, counsel for Koken asked counsel for Stateco for an extension of time to respond to the cross-complaint and third party complaint. Leight Decl. ¶ 3. Counsel for Stateco granted the request and on November 14, 2005, the parties stipulated to extend both Koken and the Mutual Companies' time to respond. Leight Decl. ¶ 4 & Exh. A (Stipulation Extending Time to Respond to Cross-Complaint and Third Party Complaint ("Stipulation")). Counsel for Koken also indicated that Morgenstein & Jubelirer LLP ("Morgenstein & Jubelirer") could accept service of the third party complaint on behalf of all the Mutual Companies. Leight Decl. ¶ 3.

On November 22, 2005, however, counsel for Koken learned that Morgenstein & Jubelirer was not authorized to accept service of the third party complaint, nor to enter a stipulation on behalf of the Mutual Companies. Leight Decl. ¶ 5. Upon discovering this

1 mistake, counsel for Koken notified the Court, all counsel of record, and the Mutual
 2 Companies that it intended to withdraw as counsel for the Mutual Companies. Leight
 3 Decl. ¶¶ 6-9 & Exhs. B, C (November 23, 2005 letters); see *a/s*o Declaration of Anthony
 4 R. Twardowski in Support of Unopposed Motion to Withdraw ("Twardowski Decl.") at ¶ 2.
 5 Counsel for Stateco does not oppose this motion. Leight Decl. ¶ 10.

6 **III. ARGUMENT**

7 **A. The Court Should Permit Counsel for Koken to Withdraw As Counsel** 8 **for the Mutual Companies Because It Has Satisfied the Requirements** 9 **of Local Rule 11-5.**

10 The Court should permit counsel for Koken to withdraw from representing the
 11 Mutual Companies because Koken's counsel has satisfied the requirements of Local
 12 Rule 11-5, which requires counsel seeking to withdraw from representing a party to
 13 provide "written notice . . . reasonably in advance to the client and to all other parties
 14 who have appeared in the case." L. R. 11-5(a). On November 23, 2005, counsel for
 15 Koken notified the Court, all counsel of record and the Mutual Companies in writing that
 16 it would seek to withdraw from representing the Mutual Companies. Leight Decl. ¶¶ 6-9;
 17 Twardowski Decl. ¶ 2.

18 **B. Permitting Counsel for Koken to Withdraw Will Not Prejudice the** 19 **Interests Of Any Of the Parties.**

20 The Court should allow counsel for Koken to withdraw as counsel for the Mutual
 21 Companies because the withdrawal will not prejudice any of the parties. First, counsel
 22 for Stateco does not oppose the motion, and has agreed to serve the Mutual Companies
 23 with the cross-complaint and third party complaint. Leight Decl. ¶¶ 9, 10. Second, only
 24 two weeks have passed since the parties entered the Stipulation, and none of the parties
 25 has taken any action in reliance on the Stipulation. Under the circumstances, there is
 26 good cause for counsel for Koken to withdraw and the Court should grant Koken's
 27 request.

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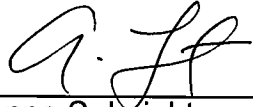
1 **IV. CONCLUSION**

2 For the foregoing reasons, counsel for Koken respectfully requests that the Court
3 permit it to withdraw as counsel for the Mutual Companies.

4
5 DATED: November 29, 2005

MORGENSTEIN & JUBELIRER LLP

6
7 By


8 Adrienne S. Leight
9 Attorneys for Plaintiff and Cross-Defendant
10 M. DIANE KOKEN
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MORGENSTEIN & JUBELIRER LLP
ATTORNEYS AT LAW
SAN FRANCISCO

[PROPOSED] ORDER

Counsel for Koken may withdraw as counsel for third party defendants Mutual Indemnity, Ltd., Mutual Indemnity (Barbados) Ltd., Mutual Indemnity (Bermuda) Ltd., Mutual Indemnity (U.S.) Ltd., and Mutual Holdings (Bermuda) Ltd., (collectively "Mutual Companies").

IT IS SO ORDERED. 11/30/05

By: /s/electronic signature authorized
Jeremy Fogel
United States District Court Judge

MORGENSTEIN & JUBELIRER LLP
ATTORNEYS AT LAW
SAN FRANCISCO